

Michael Doyle
77 Wolcott Street
Waterbury, CT. 06705

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health
vs.
Michael Doyle LPN
Licensed Practical Nurse License No. 024694
Respondent.

CASE PETITION NO. 970904-011-025

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated June 2, 1998 (Dept. Exh. 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Michael Doyle (hereinafter "respondent") which would subject respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of respondent presented a clear and immediate danger to public health and safety. On June 3, 1998, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Dept. Exh. 1-C).

The Board issued a Notice of Hearing dated June 3, 1998, scheduling a hearing for June 17, 1998 (Dept. Exh. 1-C).

Respondent was provided notice of the hearing and charges against him. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing and Statement of Charges were delivered by certified mail to respondent and respondent's attorney.

Respondent submitted a letter acknowledging receipt of the notice of the hearing but did not respond to each specific allegation in the Statement of Charges (Dept. Exh. 2).

The hearing was rescheduled and took place on July 15, 1998, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present and was not represented during the hearing (Tr., July 15, 1998, p. 2).

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Licensed Practical Nurse License Number 024694 on June 1, 1993. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh 1-D.
2. On approximately fifty-three (53) occasions from on or about January 21, 1997 through June 30, 1997, respondent obtained prescriptions for the controlled substances Vicodin, Percocet, and Tylox at various pharmacies in Southbury, Waterbury and Danbury, Connecticut. The prescriptions were written by approximately seventeen (17) different physicians. In a sworn statement given at the Southbury Police Department on July 7, 1997, respondent states he had been obtaining prescriptions for controlled substances as a result of a back injury. Respondent stated that when he obtained a prescription from a physician he did not disclose that he recently obtained a prescription from a different physician. Respondent stated he was addicted to Vicodin and was taking 20 to 30 tablets daily. Dept. Exh. 1-F.
3. On or about August 13, 1997, respondent was arrested in Southbury, Connecticut, on fourteen counts of illegally obtaining controlled substances, commonly known as "doctor shopping." Dept. Exh. 1-F.
4. On or about May 23, 1998, respondent was arrested by the Waterbury Police Department for possession of narcotics (cocaine), possession of drug paraphernalia and tampering with evidence. Dept. Exh. 1-I, 16.
5. On or about June 1998, Respondent was admitted to Griffin Hospital, Derby Connecticut and subsequently McDonough House, Bridgewater, Connecticut for chemical dependency treatment. Dept. Exh. 2.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Michael Doyle held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The FIRST COUNT of the Statement of Charges alleges that in or about August 1997, while licensed as a licensed practical nurse in the State of Connecticut, respondent was arrested on fourteen counts of illegally/fraudulently obtaining controlled substances and abused or excessively used controlled substances. It is further alleged that respondent's abuse of controlled substances does and/or may effect his practice as a licensed practical nurse.

The SECOND COUNT of the Statement of Charges alleges that in or about May 1998, while licensed as a licensed practical nurse in the State of Connecticut, respondent was arrested by the Waterbury Police for possession of controlled substances and/or illegal drugs, drug paraphernalia, and attempting to tamper with evidence. It is further alleged that respondent's abuse of narcotic substances does and/or may effect his practice as a licensed practical nurse.

Respondent failed to admit or deny these charges. (Dept. Exh. 2)

§19a-9-19 of the Regulations of Connecticut State Agencies provides that any allegation not answered shall be deemed admitted.

The General Statutes of Connecticut §20-99 provides in relevant part:

“(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing... said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17...(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following:...(2) illegal conduct, incompetence or negligence in performing usual nursing functions...(5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals....”

Based on its findings, the Board concludes that respondent's conduct as alleged in the First Count and the Second Count of the Statement of Charges is proven and that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b)(2) and (5). Therefore, respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

Order

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That for the First Count and the Second Count of the Statement of Charges, respondent's licensed practical nurse license, No. 024694, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs respondent, Michael Doyle, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 17th day of February 1999.

BOARD OF EXAMINERS FOR NURSING

By

